IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:05cv22

LEONARD A. BOYLES,)
Plaintiff,)
Vs.) ORDER
JOANNE BARNHART, Commissioner of Social Security,)))
Defendant.)))

THIS MATTER is before the court upon plaintiff's Motion to Seal Record. Plaintiff, who is proceeding *pro se* is advised that a Standing Protective Order is in place in this district which limits public access to the administrative transcript in Social Security cases. In summary, no one other than the court and counsel for the Commissioner may access a plaintiff's transcript without filing a motion, showing good cause, and receiving a court Order. Plaintiff's motion, while well taken, will be denied as moot.

Plaintiff is further advised that a "Social Security Scheduling Order" has been entered in this matter. This Order requires plaintiff to file a "Motion for Summary Judgment" not later than June 3, 2005. This means that plaintiff needs to file a writing with the court asking that judgment be entered in his favor, and showing the court why he believes the decision of the Commissioner is not supported by "substantial evidence" contained in the administrative transcript. Plaintiff is further advised that he should have already received from the Commissioner a copy of that transcript.

The only issues on review are whether the Commissioner applied the correct legal standards and whether the Commissioner's decision is supported by substantial evidence. Richardson v. Perales, 402 U.S. 389, 390 (1971); Hays v. Sullivan, 907 F.2d 1453, 1456 (4th

Cir. 1990). Review by a federal court is not *de novo*, <u>Smith v. Schwieker</u>, 795 F.2d 343, 345 (4th Cir. 1986); rather, inquiry is limited to whether there was "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion," <u>Richardson v. Perales</u>, <u>supra</u>. Even if the undersigned were to find that a preponderance of the evidence weighed against the Commissioner's decision, the Commissioner's decision would have to be affirmed if supported by substantial evidence. <u>Hays v. Sullivan</u>, <u>supra</u>.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's Motion to Seal Record is DENIED as MOOT.

Signed: May 10, 2005

Dennis L. Howell United States Magistrate Judge